

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND EARTH,  
INC.

Plaintiffs and  
Counterclaim-Defendants,

v.

EARTH PRODUCTS INC.

Defendant and  
Counterclaim-Plaintiff.

EARTH PRODUCTS INC.

Third-Party Plaintiff and  
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and  
Counterclaim-Plaintiff.

CIVIL ACTION NO. 05 cv 11781 NMG

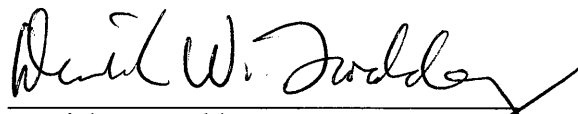
**DERRICK W. TODDY SUPPLEMENTAL DECLARATION IN SUPPORT  
OF EARTH PRODUCTS INC.'S MOTION FOR LEAVE TO FILE FIRST  
AMENDED ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

I, Derrick W. Toddy, the undersigned, declare:

1. I am an attorney at law, and an associate at the law firm of Klarquist Sparkman, LLP, counsel for Earth Products Inc. ("Earth Products") in the above-captioned matter. I am over the age of 18 and competent to testify to the matters contained in this Declaration. I have personal knowledge of the matters stated herein unless indicated otherwise.

2. Attached as Exhibit L is a true and correct copy of selected portions of Meynard's privilege log, which was sent by Federal Express on October 1, 2007.

EXECUTED this 13th day of November, 2007, in Portland, Oregon.

  
Derrick W. Toddy  
Counsel *pro hac vice* for Earth Products Inc.

**CERTIFICATE OF SERVICE**

I certify that this DERRICK W. TODDY SUPPLEMENTAL DECLARATION IN SUPPORT OF EARTH PRODUCTS INC.'S MOTION FOR LEAVE TO FILE FIRST AMENDED ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF).

Counsel for other parties are also being served by electronic mail on the date of electronic filing.

Dated: November 13, 2007

By: /s/ Derrick W. Toddy

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*Attorneys for Earth Products Inc.*

# **EXHIBIT L**

Privilege Log

No.	Date	From/Author	To	CC	Description	Privilege Type
1	09/06/01	Walsh, Kate attaching privileged letter from David Wolf, Esq.	Meynard, Philippe	Meynard, Arlette; Cummins, Ken, Esq.; Meynard, Michel	Email attaching Correspondence regarding mark for possible litigation	AC, AWP
2	08/14/01	Wolf, David, Esq.	Meynard, Philippe	Bowden, Valerie	Correspondence regarding research for potential litigation	AC, AWP
3			Wolf, David, Esq.		Typed notes regarding client conversation and various litigation matters	AC, AWP
4	03/13/03	Wolf, David, Esq.	Aswad, Sheri	Cummins, Ken, Esq.	Correspondence regarding trademark rights and legal work	AC, AWP
5	2/27/03-3/4/03	Among Bowden, Valerie; Wolf, David, Esq.; Aswad, Sheri	Aswad, Sheri; Wolf, David, Esq.; Bowden, Valerie		Chain of privileged emails among persons noted regarding trademark rights and legal work	AC, AWP
6	02/27/03	Aswad, Sheri	Wolf, David, Esq.	Bowden, Valerie	Correspondence regarding trademark rights and legal work	AC
7	08/23/02	Wolf, David, Esq.			Handwritten notes regarding licensing work and conversation with Ken Cummins, Esq.	AC, AWP
8	4/24/02-4/25/02	Among Reifman, Susan; Wolf, Douglas, Esq.; Meynard, Philippe; Wolf, David, Esq.	Wolf, Douglas, Esq.	Wolf, David, Esq.; Bowden, Valerie	Chain of privileged emails among persons noted regarding registering of various trademarks	AC
9	03/14/02	Emerson, Kate attaching privileged letter from Wolf, David, Esq.	Meynard, Michel	Cummins, Ken, Esq.	Client correspondence regarding advertisement	AC
10	03/14/02	Bowden, Valerie, attaching privileged letter from David Wolf, Esq.	Cummins, Ken, Esq.		Correspondence regarding various trademark and litigation matters	AC, AWP
11	01/13/01	Wolf, David, Esq.	Bowden, Valerie		Correspondence regarding US and Canadian trademark applications	AC, AWP
12	11/05/01	Wolf, David, Esq.	Meynard, Michel		Correspondence regarding trademark matters	AC
13	11/01/01	Wolf, David, Esq.	Meynard, Michel	Cummins, Ken, Esq.; Meynard, Philippe; Meynard, Arlette	Correspondence regarding opposition to various trademarks	AC
14	10/30/01	Wolf, David, Esq.	Meynard, Michel	Cummins, Ken, Esq.	Correspondence regarding research for trademark registration	AC, AWP

Privilege Log

No.	Date	From/Author	To	CC	Description	Privilege Type
313	09/25/97	Wolf, David, Esq.	Meynard, Michel		Correspondence re: assignment of registration to Mondial	AC, CI
314	09/23/97	Wolf, David, Esq.	Watler, Kareen		Correspondence re: assignment of registration to Michel Meynard, Inc.	AC, CI
315	09/23/97	Watler, Kareen	Wolf, David, Esq.		Correspondence re: assignment of registration to Michel Meynard, Inc.	AC, CI
316	09/17/97	Christian, Ellen J.	Wolf, David, Esq.		Correspondence re: assignment of registration to Michel Meynard, Inc.	AC, CI
317	09/12/97	Wolf, David, Esq.	Meynard, Michel		Correspondence re: assignment of registration to Michel Meynard, Inc.	AC, CI
318	09/11/97	Wolf, David, Esq.	Meynard, Michel		Correspondence re: assignment of registration to Michel Meynard, Inc.	AC, CI
319	07/18/97	Wolf, David, Esq.	Meynard, Michel		Correspondence re: extension of time to file statement of use	AC, CI
320	07/18/97	Wolf, David, Esq.	Meynard, Michel		Correspondence re: extension of time to file statement of use	AC, CI
321	06/25/97	Meynard, Michel	Wolf, David, Esq.		Correspondence re: change of mailing address	AC
322	06/19/97	Wolf, David, Esq.	Nota, Susan		Correspondence re: extension of time to file statement of use	AC, CI
323	05/16/97	Wolf, David, Esq.	Nota, Susan		Correspondence re: extension of time to file statement of use	AC, CI
324	04/17/97	Wolf, David, Esq.	Nota, Susan		Correspondence re: extension of time to file statement of use	AC, CI
325	03/12/97	Wolf, David, Esq.	Nota, Susan		Correspondence re: extension of time to file statement of use	AC, CI
326	02/14/97	Wolf, David, Esq.	Nota, Susan		Correspondence re: extension of time to file statement of use	AC, CI
327	02/10/97	Nota, Susan	Wolf, David, Esq.		Correspondence re: extension of time to file statement of use	AC, CI
328	12/26/96	Wolf, David, Esq.	Cummins, Ken, Esq.		Correspondence re: extension of time to file statement of use	AC, CI
329	11/25/96	Wolf, David, Esq.	Nota, Susan		Correspondence re: extension of time to file statement of use	AC, CI
330	11/20/96	Wolf, David, Esq.	Cummins, Ken, Esq.		Correspondence re: extension of time to file statement of use	AC, CI
331	11/20/96	Nota, Susan	Wolf, David, Esq.		Correspondence re: extension of time to file statement of use	AC, CI